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RochesterTel

SEP 30 1993

100-20157-014

September 29, 1993

BY OVERNIGHT MAIL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 93-162

Dear Mr. Caton:

Enclosed for filing please find an original plus seven (7) copies of the Rebuttal Case of Rochester Telephone Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: Tariff Division (2)

ITS, Inc.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP 30 1993

FCC - MAIL ROOM

In the Matter of)

Local Exchange Carriers' Rates,)
Terms and Conditions for)
Expanded Interconnection for)
Special Access)

CC Docket No. 93-162

REBUTTAL CASE OF
ROCHESTER TELEPHONE CORPORATION

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September 29, 1993

(2690K)

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REBUTTAL CASE OF
ROCHESTER TELEPHONE CORPORATION

Rochester Telephone Corporation ("Rochester") submits this rebuttal to the oppositions or comments received on the direct cases of the Tier 1 exchange carriers^{1/} regarding their special access expanded interconnection offerings. The comments confirm that the Commission should find Rochester's special access expanded interconnection offering just and reasonable in all respects. Not one of the parties

^{1/} Rochester has received such pleadings from: The Association for Local Telecommunications Services ("ALTS"); MCI Telecommunications Corporation ("MCI"); MFS Communications Company, Inc. ("MFS"); Staff of the Public Utilities Commission of Ohio; Sprint Communications Company L.P. ("Sprint"); Teleport Communications Group Inc. ("Teleport"); and Teleport Denver Ltd.

specifically challenged any aspect of Rochester's expanded interconnection offering. Moreover, as Rochester demonstrated in its direct case^{2/} -- and was effectively unchallenged -- virtually all of the issues designated for investigation^{3/} have no applicability to Rochester's expanded interconnection offering. The few criticisms that may have some applicability to Rochester lack merit.

First, the assertions that exchange carriers' rates are unreasonably high^{4/} or that the rate structures are unduly complex or lack uniformity^{5/} simply do not apply to Rochester. As Sprint and Teleport acknowledge,^{6/} Rochester's price for its expanded interconnection offering is among the lowest being proposed.

In addition, its rate structure -- consisting of relatively few rate elements -- is not complex. Thus, it is not necessary for the Commission to require Rochester to

^{2/} Direct Case of Rochester Telephone Corporation (Aug. 19, 1993) ("Rochester Direct Case").

^{3/} Local Exchange Carriers' Rates, Terms and Conditions for Expanded Interconnection for Special Access, CC Dkt. 93-162, Order Designating Issues for Investigation, DA 93-951 (Com. Car. Bur. released July 22, 1993).

^{4/} E.g., ALTS at 27-28; MFS at 14-15 & 15 n.36.

^{5/} E.g., MCI at 4-8.

^{6/} Sprint at 8; Teleport at A-1.

alter its rate structure in the supposed interest of uniformity. Potential customers will be able to evaluate the overall price of an expanded interconnection offering without difficulty.

The complaint -- directed primarily against Bell Atlantic -- that individual case basis pricing was utilized for make-ready construction, in contravention of Commission directives,^{1/} also applies, in part, to Rochester. Like Bell Atlantic, Rochester included in its tariff language that make-ready work would be subject to standard time and materials rates contained in other sections of its tariff. Contrary to MFS's assertion, this does not constitute the offering of such work on an individual case basis. Rather, as Rochester explained in its direct case, such charges are not susceptible to a uniform tariffed rate. Nonetheless, potential customers know the basis upon which Rochester will compute such charges^{8/} and Rochester will include those specific rates in its tariff when it knows them.^{9/}

^{1/} MFS at 17-18.

^{8/} Rochester Direct Case at 6.

^{9/} In addition to making this commitment, Rochester provided a price-out of the overall price for a configuration of 100 DS-1 circuits that included a typical price for make-ready work that is relatively modest, utilizes a reasonable cost of money and provides for payment over the life of a typical lease. See id., App. B.

Second, virtually none of the specific complaints -- e.g., the basis upon which floor space charges were calculated, warehousing limitations, the manner in which power is supplied and the like -- simply do not apply to Rochester's expanded interconnection offering.^{10/} No party has complained about these provisions in Rochester's tariff and the Commission should conclude that Rochester has reasonably addressed these concerns.

Third, the few complaints regarding the terms of the expanded interconnection offerings that arguably apply to Rochester are without merit. These fall into three categories: (a) provisions regarding relocation; (b) termination provisions; and (c) provisions regarding limitation of liability.

Certain parties object to the provisions contained in certain tariffs regarding relocation of interconnectors' facilities or termination in the event of catastrophic loss.^{11/} Rochester did not specifically address these issues in its tariff, because it cannot predict the circumstances

^{10/} See id. at 6-9, 12, 13-15.

^{11/} E.g., Teleport at B-11 - B-19.

under which the necessity for such actions may arise.^{12/} It makes more sense to deal with these circumstances through good-faith negotiation rather than through rigid rules set forth either in a tariff or in a Commission regulation. Given the variety of unforeseen circumstances in which the need for considering such action might arise, the Commission should decline to mandate that exchange carriers' tariffs embody a particular approach to these eventualities.

Similarly, Rochester did not include termination provisions unique to its expanded interconnection offering in its tariff. Rather, it chose to rely upon the general termination provisions that have been in effect for years.^{13/} To the extent that the concerns regarding termination provisions suggest that expanded interconnection customers be subject to a more lenient standard,^{14/} the Commission should reject that claim.^{15/}

The same is true with respect to limitation of liability provisions. The Commission should consider presumptively reasonable terms that have been contained in exchange carrier tariffs for years and that apply equally to all customers.

^{12/} Rochester Direct Case at 10-11.

^{13/} *Id.* at 9-10.

^{14/} *E.g.*, ALTS at 36.

^{15/} Rochester Direct Case at 9-10.

Rochester's special access expanded interconnection offering is reasonable in all respects. The Commission should so conclude and terminate this investigation accordingly.

Respectfully submitted,

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September 29, 1993

(2690K)

Certificate of Service

I hereby certify that, on this 29th day of September, 1993, the foregoing Rebuttal Case of Rochester Telephone Corporation was served by first-class mail, postage prepaid, upon the parties on the attached service list.

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